

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

GILDER *et al.*

Appl. No.: 10/505,472

Filed: August 20, 2004

For: **Combustion Modified
Polyurethane Foam**

Confirmation No.: 1706

Art Unit: 1796

Examiner: Cooney, John M.

Atty. Docket: 2619.0060002/MBR/GER

Reply to Restriction Requirement

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

In reply to the Office Action dated June 6, 2008, requiring an election of one invention to prosecute in the above-referenced patent application, Applicants hereby provisionally elect, with traverse, to prosecute the invention of Group I, characterized by the Examiner as claims 1, 3-17, 20-22, 24-28, 41 and 42.


However, it is respectfully submitted that the restriction requirement is improper, because there is unity of invention between the Group I and the Group II claims. Each of independent claims 1, 22, and 31 recite that the polyurethane foam passes the open flame resistance portion and the smoldering portion of the California 117 Burn Test. Accordingly, there is unity of invention between the independent claims in Group I and the independent claim in Group II. Applicants respectfully request that the restriction requirement be reconsidered and withdrawn.

It is Applicants' understanding that an election of species is not required. If the Examiner disagrees, he is requested to contact the undersigned immediately.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor are hereby authorized to be charged to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.


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Date: September 5, 2008

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